

Supreme Court of Kentucky

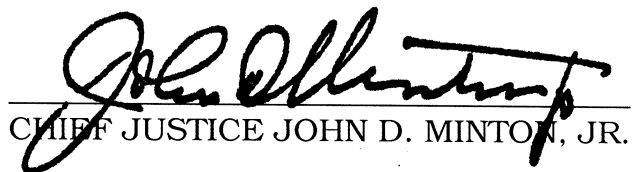
ORDER

**IN RE: ORDER APPROVING THE LOCAL RULES OF PRACTICE AND
PROCEDURE FOR THE 32ND JUDICIAL CIRCUIT COURT, BOYD
COUNTY**

Upon recommendation of the Circuit Judges of the 32nd Judicial Circuit,
and being otherwise sufficiently advised,

The Local Rules of Practice and Procedure for the 32nd Judicial Circuit,
Boyd County, are hereby approved. This order shall be effective as of the date
of this Order, and shall remain in effect until further orders of this Court.

Entered this the 13th day of July 2012.


CHIEF JUSTICE JOHN D. MINTON, JR.

**RULES OF PRACTICE
BOYD CIRCUIT COURT
CATLETTSBURG, KENTUCKY**

I. Citation of Rules

These rules may be cited as "RBCC" or Rules of Boyd Circuit Court.

II. Divisions

- a. Boyd Circuit Court shall operate in two divisions; namely, Division I and Division II, and each Division shall have jurisdiction of both criminal and civil cases.
- b. Division I shall be presided over by the duly elected or appointed Judge of such Division.
- c. Division II shall be presided over by the duly elected or appointed Judge of such Division.

III. Assignment of Cases to Divisions

- a. All cases filed, including pre-indictment applications, motions and/or petitions in criminal cases in Circuit Court, will be assigned randomly using the Judge Assignment Program in the Office of the Boyd Circuit Court Clerk.
- b. In the event the Judges of the respective divisions are disqualified from trying cases as assigned for any reason, these cases shall be transferred, by written order, to the other Division. The written Order transferring the case shall be signed by the Judges of each Division.
- c. Where related actions are assigned to different Divisions, the cases may be consolidated or transferred to the Division in which the first action was assigned.

IV. Jury Trial Periods

- a. The jury term for Division I shall begin on the first Monday of each month and the jury term for Division II shall begin on Wednesday following the first Monday of each month.
- b. Whenever the first Monday of the month is a legal holiday, then the beginning day of the jury trial period for Division I shall be the first Tuesday following the first Monday.

- c. Petit and grand juries can be summoned for any jury trial period in accordance with the applicable statutes and rules as promulgated by the Supreme Court of Kentucky.
- d. A new petit jury will be empanelled for each term of Court. Once empanelled, a member of the petit jury shall continue to serve in that capacity until a new petit jury is empanelled or until the completion of the last case on which that juror was selected to serve, whichever occurs last. For any reasons authorized by KRS 29A.100, the Chief Judge or his or her designee may excuse any juror from additional service at any time. Also, for any reason authorized by KRS 29A.100, the Chief Judge or his or her designee may excuse any juror and permit him or her to be empanelled at a later date to serve for the duration of that month.
- e. A grand jury shall be empanelled four times each year for the following terms: The February grand jury shall be empanelled on the first Monday in February and shall serve until the first Monday in May of that year; the May grand jury shall be empanelled on the first Monday in May and shall serve until the first Monday in August of that year; the August grand jury shall be empanelled on the first Monday in August and shall serve until the first Monday in November of that year; the November grand jury shall be empanelled on the first Monday in November and shall serve until the first Monday in February of the following year.
- f. The Judge of each respective Division will be responsible for setting his own trial docket for both civil and criminal cases.

V. Unavailability of Judge to Preside at Trials or Over Trial Periods

In the event the Judge of a Division is unable to preside at a trial or any portion of a trial assigned to his Division over which he is under these rules scheduled to preside, the Judge of the other Division may preside over such trial or portion thereof.. Orders and Judgments entered indicate that the matter was heard by the Judge of the other Division.

VI. Unavailability of Judge

If it appears that any matter demands immediate attention and the Judge of the Division to whom the case has been assigned is not available, the matter may be considered and acted on by the Judge of the other Division.

VII. Appointment of Counsel for Indigents in Criminal Cases

The Judges of each Division shall determine if a defendant is indigent. If the defendant is found to be indigent, the Court shall appoint a Public Defender to represent the defendant.

In cases of multiple defendants, the Court will hold a hearing to determine if the Public Defender can represent each defendant and each defendant will execute a waiver of appointment of a special attorney.. If there appears to be a conflict of interest at any stage prior to trial, the Court can take the following steps:

Appoint a member of the Boyd County Bar from a panel constituted in the following manner:

Each year, members of the Boyd County Bar Association desiring to participate in the private public defender program will submit written notification of that interest to the Chief Judge of the Boyd Circuit Court. The Chief Judge, after consideration of each applicant's qualifications, will approve and appoint a panel of attorneys to participate in the program. The number of attorneys selected shall be solely within the discretion of the Court after due consideration for the Court's criminal docket and the number of conflict cases which, in the Court's experience, arise from time to time. The Chief Judge shall enter an Order approving the applicants and formally establishing the panel. A copy of the Order shall be filed with the Clerk of the Boyd Circuit Court and copies shall be made available to all Judges of both the Boyd Circuit Court and Boyd District Court for appointment purposes.

VIII. Assignment of Cases for Trial

- a. The date of trial of civil cases shall be set by the Judges of the respective Division upon Notice and Motion in accordance with CR 40; by agreed order; by the Court during a pre-trial conference at which all parties are present or are represented by counsel; by the Court on its own Motion, where Notice has been given by the Court to the parties of the date and hour when the case will be set for a definite date for trial; or, in criminal cases, at the time of arraignment.
- b. A case set for trial will not be continued unless a written Motion has been filed, with supporting Affidavits if required by law, except as otherwise accomplished by agreement of all parties and approval of the Court.

IX. Pre-trial Conferences

Pre-trial conferences shall be conducted in accordance with CR 16. An Order shall be entered setting the time, date and place of conference and a copy of the Order shall be served on the parties by the Clerk at least ten days prior to the date of the conference. The time, date and place of such conference may be set by agreement of the parties and by consent of the Court.

X. Motion and Motion Day Hours, Civil Cases

- a. Division I: Fridays, beginning at 9:30 a.m., prevailing local time, except Fridays which may be designated as a holiday by the Kentucky Court of Justice.

- b. Division II: Fridays, beginning at 9:00 a.m., prevailing local time, except Fridays which may be designated as a holiday by the Kentucky Court of Justice.
- c. The Clerk shall keep a Motion Docket for each Division on which all Motions will be docketed.
- d. Motions shall be filed by Friday at 4:00 p.m. of the week preceding the motion hour. If the courthouse is closed on Friday, then the motion must be filed by Thursday at 4:00 p.m.
- e. In the event a Friday is designated as a holiday by the Kentucky Court of Justice, then all Motions which would have been called and considered will be called and considered on the next Friday.
- f. Motion Day or Hour may be dispensed with if both Judges are not available. All Motions which would have been called and considered on such Friday will be called and considered on the next Friday.
- g. All Motions, except routine Motions, shall state on the Motion following the signature of the attorney or on a separate memorandum the Statute, Civil Rules, Court Rules, or other authority (including cases) supporting the Motion or justifying the relief requested.

XI. Copies of Complaints to be Filed

Complaints filed with the Clerk must contain the names of all attorneys representing the plaintiff; copies of all affidavits and exhibits referenced in the complaint; and sufficient copies to for each defendant named in the complaint. The Clerk will enter the order, assign a filing date and number, and note the complaint on the Civil Docket. Failure to provide sufficient copies for all defendants may be cause for the Court to extend the response time.

XII. Video Recorded Depositions

Under CR 30.02(4), any party may present video tape evidence of a deposition for use in court proceedings.

XIII. Costs

As provided in KRS 453.040, the successful party in any action shall recover his costs, unless otherwise provided by law. In all civil jury trials and consistent with KRS 29A.180, the cost for the transportation of jurors and other authorized persons to views of the scene or other locations authorized by the court pursuant to KRS 29A.310 shall be borne by the party moving the court for the view. If two or more parties in civil cases involving multiple litigants move the Court to allow jurors or other authorized persons to view the scene or other location, then the fees and costs associated with the view shall be borne equally by all parties joining in the motion. In all criminal jury trials and consistent with KRS 29A.180, the cost for the transportation of jurors and other authorized persons to views of the scene or other locations authorized by the court pursuant to KRS 29A.310 shall be borne by the Finance and Administration Cabinet.

XIV. Questioning of Jurors

Neighborhood canvassing or questioning with regard to jurors without the prior approval of the Court be and is hereby prohibited. Any request for permission to conduct neighborhood canvasses for information regarding jurors of the Boyd Circuit Court shall be accompanied by information as to the questions to be asked, the identity of the questioners, the extent of the canvassing and any and all other relevant information so that the Court may make an informed decision with regard to any infringement upon the right of privacy of individual jurors.

XV. Instructions

The parties will before or at the commencement of the trial in jury actions submit such instructions as they expect to offer in the trial. Additional instructions may be offered at the trial at the close of the evidence to conform to the proof or in the interest of justice as provided by CR 51.

XVI. Non-Resident Attorneys

An attorney who is not admitted to practice in Kentucky may appear or file a pleading or notice in an action in this Court only if he or she subjects himself or herself to the jurisdiction and rules of the Supreme Court of Kentucky, pays a one-time per case fee to the Kentucky Bar Association and engages a member of the association as co-counsel, whose presence shall be necessary at all trials and at other times when required by the court.

XVII. Dismissal of Action and Failure to Prosecute

When any action has remained on the Civil Docket for one (1) year without any step indicating an intention to prosecute, it shall, upon motion of any party or on the Court's own motion and with notice to all parties, be dismissed for lack of prosecution. The court will reconsider a matter that has been dismissed for lack of prosecution, provided a motion to reconsider is filed within ten (10) days after the entry of the Order of dismissal.

XVIII. Effective Date

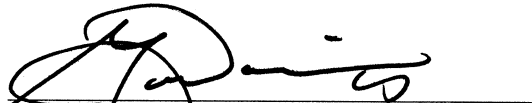
These rules are adopted pursuant to the authority granted under SCR 1.040 and they shall apply with full force and effect to all actions pending after the date of their promulgation by Order of the Judges of Boyd Circuit Court and upon approval by the Chief Justice. These rules supplement the Kentucky Rules of Civil Procedure, Kentucky Rules of Criminal Procedure, and any applicable statutes.

All previous rules of this Court are abolished.

DATED this 10 day of July, 2012.



C. David Hagerman
Chief Circuit Judge
Boyd Circuit Court, Division II



George W. Davis
Circuit Judge
Boyd Circuit Court, Division I